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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,074	12/11/2003	Donald E. Weder	8403.635	8163

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EXAMINER

GELLNER, JEFFREY L

ART UNIT PAPER NUMBER

3643

DATE MAILED: 11/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/734,074

Applicant(s)

WEDER, DONALD E.

Examiner

Jeffrey L. Gellner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-21 is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11 December 2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

Acknowledgement is made of Applicant's IDS received 11 December 2003.

#### ***Election/Restrictions***

Applicant's election of Species I in the reply filed on 19 October 2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Non-elected claims 22-27 have been cancelled in the amendment received 19 October 2004.

#### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show element 14 as described in the specification at para. 0021.

Additionally, panel 43 is defined as panel 44 in para. 0022 and defined as panel 43 in para. 0021.

Additionally, "score line 45" of para. 0023 is probably shown as element 54 in Fig. 3

#### ***Specification***

The disclosure is objected to because of the following informalities:

In para. 0021, the first and last lines, "FIG. 2" should probably be --FIG. 3--.

In para. 0025, third line, "FIG. 2" should probably be --FIG. 3--.

In para. 0036, first line, "FIG. 3" should probably be --FIG. 2--.

Appropriate correction is required.

### ***Claim Objections***

Claims 1 and 13 are objected to because of the following informality:

In claim 1, line 3, and line 4, a --,-- should be placed after "area" in both instances so as to improve clarity of the language.

In claim 13, line 1, after "the" should be added --at-- so as to conform to prior used language.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, and 8-10 are rejected under 35 U.S.C. §102(b) as being anticipated by Gnadt et al. (US 6024,224).

As to Claim 1, Gnadt et al. disclose a self erecting pot (Figs. 1-10) comprising at least one non-heat shrinkable sheet (40 of Figs. 2-9) having a inner area (12 of Fig. 2), a plurality of panels (14 and 22 of Fig. 2), and a score line disposed between the inner area and the plurality of panels (42 and 44 of Fig. 2); and, at least one heat shrinkable sheet (76 of Fig. 10; col. 3 lines 48-

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52) bonded (in that the shrink wrap would adhere to the non-heat sheet by friction, etc.) to the non-heat shrinkable sheet, such that, upon heating the heat shrinkable sheet shrinks (inherent) and pulls together and form the non-heat shrinkable sheet into the self erecting pot (from “insures that product retains its integrity” of col. 3 lines 48-52).

As to Claim 2, Gnadt et al. further disclose four panels (14, 18, 22, and 26 of Fig. 2).

As to Claim 3, Gnadt et al. further disclose the non-heat shrinkable sheet of material being paper (col. 4 lines 45-53).

As to Claim 5, Gnadt et al. further disclose the inner area being rectangular (Fig. 2).

As to Claim 8, Gnadt et al. further disclose the inner area as substantially fanciful.

As to Claims 9 and 10, Gnadt et al. further disclose six panels (14, 16, 18, 22, 24, 26) and eight panels (14, 16, 18, 20, 22, 24, 26, 28).

### ***Claim Rejections - 35 USC §103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 6, and 7 are rejected under 35 U.S.C. §103(a) as being unpatentable over Gnadt et al. (US 6024,224).

As to Claim 4, 6, and 7, the limitations of Claim 1 are disclosed as described above. Not disclosed is the inner area either circular, square, or triangular. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the pot of Gnadt et al. by

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having the inner area either circular, square, or triangular so as to meet needs of the article used with the pot.

Claims 12-21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Gnadt et al. (US 6024,224) in view of Dixon (US 5,186,988).

As to Claims 12 and 17, the limitations of Claims 1 and 2 are disclosed as described above. Not disclosed is the heat shrinkable sheet being a plurality of layers. Dixon, however, discloses a shrinkable sheet with layer (50 of Figs. 1 and 3; col. 4 lines 40-55). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the pot of Gnadt et al. by using a multiply shrinkable sheet as disclosed by Dixon so as to meet consumer demand.

As to Claims 13, 14, 18, and 19, the limitations of Claims 1 and 4 are disclosed as described above. Not disclosed is the non-heat shrinkable sheet with a decorative pattern or design. Dixon, however, discloses a non-heat shrinkable sheet with a decorative pattern or design (52 of Figs. 1 and 3, in that since 52 shrinks less than 50, 52 is considered relatively non-heat shrinkable). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the pot of Gnadt et al. by having designs/patterns on the non-heat shrinkable sheet as disclosed by Dixon so as to meet consumer demand.

As to Claims 15, 16, 20, and 21, the limitations of Claims 2 and 4 are disclosed as described above. Not disclosed is the heat shrinkable sheet with a decorative pattern or design. Dixon, however, discloses a heat shrinkable sheet with a decorative pattern or design (50 of Figs. 1 and 3, in that since 52 shrinks less than 50, 50 is considered relatively heat shrinkable). It

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would have been obvious to one of ordinary skill in the art at the time of the invention to modify the pot of Gnadt et al. by having designs/patterns on the heat shrinkable sheet as disclosed by Dixon so as to meet consumer demand.

### ***Allowable Subject Matter***

Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Newsome, Kozlowski et al., Martin, and Childress et al. disclose in the prior art various container with shrink wrap regions.

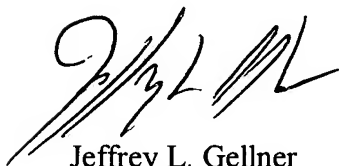
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.

A handwritten signature in black ink, appearing to read 'J. L. Gellner', with a stylized flourish at the end.

Jeffrey L. Gellner  
Primary Examiner